

**ANTIDEFICIENCY ACT**

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**CHAPTER 1****VIOLATIONS OF THE ANTIDEFICIENCY ACT**0101 **GENERAL**

010101. **Purpose.** This chapter provides guidance on National Aeronautics and Space Administration's (NASA) Antideficiency Act policies, procedures, and responsibilities within the agency. Policies and procedures for the administrative control of funds are addressed in Volume 5 "Budget Execution and Funds Control" and procedures and details for controlling available funds are contained in Appendix A.

010102. **Provisions.** The provisions of this volume take precedence over any conflicting guidance in other volumes of this regulation.

010103. **How Violations Occur.** Generally, violations of the Antideficiency Act occur under the circumstances listed below. However, this list is not exhaustive of potential violations of the Act. Therefore, questions regarding the application of the Antideficiency Act to a particular transaction should be referred to the Office of General Counsel at Headquarters, or the Office of Chief Counsel at field centers.

A. Funding authority is issued in excess of the amount available and the excess amount is obligated or expended. The issuance of funds by means of a formal subdivision of funds (allocation, allotment, suballotment or other formal designation of a limitation), in an amount that exceeds the amount currently available, would result in a violation of the Antideficiency Act if those excess funds distributed are obligated or expended. The individual authorizing the release of those funds would be responsible for the violation. The issuance of a funded order in excess of available funds may also result in a violation of the Antideficiency Act.

B. Obligations or expenditures are authorized or incurred in excess of the amount of funds available at the formal subdivision of funds level. Incurring an obligation or disbursement in excess of a target (vice a formal subdivision of funds) does not in itself create a violation of the Antideficiency Act; however, if exceeding a target causes the governing formal fund subdivision or limitation to be breached, a potential violation of the Antideficiency Act would be incurred.

C. Special and recurring statutory limitations or restrictions on the amounts for which an appropriation or fund may be used are violated.

D. Regulatory limitation on the amounts for which an appropriation or fund are violated, when specifically carrying an antideficiency limitation.

E. Statutory limitations on the purposes for which an appropriation or fund may be used are violated.

F. Regulatory limitation on the purposes for which an appropriation or fund may be used are violated, when specifically carrying an antideficiency limitation and corrective funding is not available.

G. Obligations are authorized or incurred in advance of funds being available.

H. Obligations or expenditures of funds do not provide for a bona fide need of the period of availability of the fund or account and corrective funding is not available.

I. Voluntary services are accepted, or personal services are employed, in excess of that authorized by law. In particular NASA has specific statutory authority to accept unconditional gifts or donations of services, money, or property, in Section 203(c)(4) of the National Aeronautics and Space Act of 1958, as amended, 42 USC 2473(c)(4), but (2) this authority is construed narrowly, and is not general authority to accept voluntary or personal services.

## 0102 PROVISIONS

### 010201. Antideficiency Act, Section 1341 of Title 31, United States Code.

A. General. The Antideficiency Act consists of provisions of law identified in Title 31 of the United States Code to prevent agencies from spending their entire appropriations during the first few months of the year. Among other requirements the Act prohibits a Federal employee from:

1. Entering into contracts that exceed the enacted appropriations for the year.

2. Purchasing services or merchandise before appropriations are enacted.

#### B. Requirements. The Antideficiency Act:

1. Requires that the Office of Management and Budget (OMB) apportion the appropriations, that is, approve a plan that spreads out spending over the fiscal period for which the funds were made available.

2. Restricts deficiency apportionments to amounts approved by the agency heads only for extraordinary emergency or unusual circumstances.

3. Establishes penalties for Antideficiency Act violations. Violations are obligations or expenditures in excess of the lower of the amount in the affected account, the amount apportioned, or the amount allotted.

4. Requires the agency head to report any Antideficiency Act violations to the President, through the OMB Director, and Congress.

C. Under the Act, if an officer or employee of the Government obligates or expends more than the amount in the Treasury Account Fund Symbol or the amount apportioned or any other subdivision of funds, resulting in the overobligation of one of the previous amounts as prescribed by 31 U.S.C. 1517(a), that officer or employee is subject to appropriate administrative discipline. Such discipline includes a written reprimand, suspension of employment duty without pay, or removal from office. In addition, conviction of willfully and knowingly overobligating or overexpending the amount, can result in a fine not more than \$5,000, imprisoned for not more than 2 years, or both.

## 0103 CODIFICATION OF THE ANTIDEFICIENCY ACT

### 010301. Title 31, Antideficiency Provisions and Limitations

A. Sections 1341, 1342, 1517. When the “Antideficiency Act” was codified into Title 31 of the United States Code, its provisions were incorporated into a number of sections of that Title. The most frequently cited sections are 1341, 1342, and 1517. Chapter 8 of this volume and Figure 1-1, below, furnish examples of the most common types of Antideficiency Act violations.

B. Title 31, United States Code, Section 1341, Limitation on Expending and Obligating Amounts. Section 1341 forbids an employee of the United States Government from the following actions:

1. Obligating, expending, or authorizing the use of funds exceeding the amount available in an appropriation or fund.

2. Involving the Federal Government in any contract or obligation for the payment of money before an appropriation is made available.

3. Obligating, expending, or authorizing of funds required to be sequestered.

4. Involving the Federal Government in any contract or obligation for the payment of money required to be sequestered.

C. Title 31, United States Code (U.S.C.), Section 1342, Limitation of Voluntary Services. Section 1342 forbids the acceptance of voluntary services on behalf of the

Federal Government or employment of personal services in excess of that authorized by law, except as it may be necessary in emergencies involving the safety of human life or the protection of property. NASA has specific statutory authority, Section 203(c)(4) of the National Aeronautics and Space Act of 1958, as amended, “to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible.” However, this authority has been construed conservatively, and the acceptance of any service, money or property pursuant to this authority must be coordinated in advance with the Office of General Counsel at Headquarters, or the Office of Chief Counsel at field centers.

D. Title 31, United States Code, Section 1517, Obligation and Expenditure Limits. Section 1517 forbids the overobligation and over expenditure of an apportionment or an amount permitted by a regulation prescribed for the administrative control of appropriations.

E. Violations Caused by Exceeding Limitations Imposed by Law. Violating a limitation imposed by law (the Congress) may be a violation of the Antideficiency Act under 31 U.S.C. 1341(a)(1).

F. Violations Caused by Exceeding Limitations Imposed by the Office of Management and Budget

1. Exceeding a limitation of funds administratively imposed by the Office of Management and Budget on obligations or expenditures may be a violation of the Antideficiency Act under subsection 1517(a).

2. If an administrative subdivision of funds is exceeded, then a potential violation shall be reported. The receipt of additional funds before the end of a reporting period does not mitigate a violation of a limitation or eliminate the reporting requirement for a potential violation. Also, a failure to record a valid obligation or expenditure as of the date incurred does not avoid the incurrence of, and the requirement to report, a potential violation of the Antideficiency Act if, upon recordation, available funds in the account or other limitations are exceeded.

Figure 1-1 POTENTIAL VIOLATIONS

A VIOLATION MAY OCCUR WHEN	DESCRIPTION OF POTENTIAL VIOLATION	TITLE 31, UNITED STATES CODE, SECTION
<b>Any Federal employee:</b>	1. Makes or authorizes an expenditure or obligation against an appropriation account that was closed pursuant to Title 31, United States Code (U.S.C), sections 1552 or 1555, or the period prescribed in an appropriations act for making expenditures as authorized by 31 U.S.C. 1557.	1341(a)(1)(A)
	2. Involves the Government in any contract or other obligation for the payment of money for any purpose before appropriations are made for such purposes, unless the law authorizes such contract or obligation.	1341(a)(1)(B)
	3. Makes or authorizes an obligation or expenditure of funds required to be sequestered under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.	1341(a)(1)(C)
	4. Involves the Government in a contract or other obligation for the payment of money required to be sequestered under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.	1341(a)(1)(D)
	5. In the absence of specific statutory, accepts voluntary services or employs personal services in excess of that authorized by law except in cases of emergency involving the safety of human life or the protection of property.	1342

A VIOLATION MAY OCCUR WHEN	DESCRIPTION OF POTENTIAL VIOLATION	TITLE 31, UNITED STATES CODE, SECTION
<b>Obligations authorized or incurred or expenditures made exceed:</b>	1. The available amount of any appropriation or fund.	1341(a)(1)(A)
	2. The available amount of any apportionment or reappropriation.	1517(a)(1)
	3. Any statutory restriction imposed on the use of an appropriation or fund.	1341(a)(1)(A)
	4. Any limitation imposed by an authorized official of NASA that is intended to restrict obligations of apportioned appropriations or funds.	1517(a)(2)

Figure 1-1 POTENTIAL VIOLATIONS

(continued)

**Figure 1-1 POTENTIAL VIOLATIONS**  
(continued)

<b>A VIOLATION MAY OCCUR WHEN</b>	<b>DESCRIPTION OF POTENTIAL VIOLATION</b>	<b>TITLE 31, UNITED STATES CODE, SECTION</b>
<b>In a working capital (revolving) fund</b>	1. A working capital (revolving) fund or a part of that fund is apportioned and obligations of that fund or part of that fund exceed the available amount of the apportionment.	1517(a)(1)
	2. Obligations exceed the available amount of budgetary resources.	1517(a)(2)
	3. Amounts expended that exceed available fund balances with Treasury whether apportioned or not.	1341(a)(1)(A)

**Figure 1-1, Potential Violations**



**CHAPTER 2****PRELIMINARY REVIEWS OF POTENTIAL VIOLATIONS****0201 REPORTING SUSPECTED VIOLATIONS**

020101. When a possible violation of the Antideficiency Act is detected if at the Center level it is to be reported it to the Center Chief Financial Officer. When the possible violation is detected at the Headquarters level, report it to the Office of the Chief Financial Officer (OCFO). The report may require a preliminary review (see 0202, below) control number (according to procedures that may be in effect at that time) and shall include the following information:

- A. Accounting classification of funds involved
- B. Name and location of the activity where the possible violation occurred
- C. Name and location of the activity issuing the fund authorization, if different than subparagraph 020101.B, above
- D. Amount of fund authorization or limitation that possibly was exceeded
- E. Amount and nature of the possible violation
- F. Date the possible violation occurred and date discovered
- G. Means of discovery
- H. Description of the fact and circumstances of the case
- I. Anticipated dates of completion of the preliminary review and submission of the report
- J. The names and work phone numbers for members of the preliminary review team.

**0202 FOR ALL PRELIMINARY REVIEWS IN GENERAL**

020201. Purpose. The purpose of a preliminary review is to gather basic facts and determine whether a violation has occurred. When a NASA employee has evidence that a violation may have occurred, preliminary checks of the applicable business transaction and accounting records shall be made to determine whether a potential violation exists. This should

be done in a timely manner (usually within 30 days). The NASA CFO and Center CFOs will conduct preliminary reviews based on the following:

A. These actions include:

1. Checking for duplications or other errors in recording,
2. Checking commitments and obligations to ensure they are valid and properly chargeable against the funds involved, and
3. Checking actual fund status in the account affected at the time the questionable transaction occurred.

B. A preliminary review shall focus on the potential violation and not the corrective actions. If a potential violation occurs at an appropriation level, then an individual meeting the same general selection criteria for those conducting formal investigations specified in Chapter 3, 030201 of this volume shall complete the preliminary review.

020202. Interpretation and Legal Issues. The existence of a violation may depend upon an interpretation of statutory or regulatory constraints imposed on using a particular appropriation or account, the proper fiscal year to be charged, or similar issues. In all cases, the reviewer shall request and obtain the advice of NASA legal counsel on legal issues raised during the preliminary review. When the possible violation occurred at Headquarters, advice should be sought from the Office of the General Counsel. When the violation occurs at a field center, advice should be sought from the Office of the Chief Counsel of the center.

020203. Review Results. The results of the preliminary review shall be documented in a report which is to include sufficient evidence to support the findings and is signed and dated by the official doing the preliminary review, and is forwarded for approval to the CFO or the Deputy Administrator for Headquarters and the Center CFOs for Center reviews. The preliminary review report shall be coordinated with the Office of General Counsel or Chief Counsel of the center as appropriate, consistent with 020202 above.

020204. Formal Investigations. If it is determined that there is a potential violation at Headquarters or one of the Centers, then a formal investigation shall be initiated within 15 business days of the approval of the report of preliminary review. The provisions in Chapters 3 and 4 of this volume shall be followed when conducting a formal investigation. If it is determined that there is no violation, then the preliminary review report completes the actions regarding the potential violation. No further action is required after the report is approved.

## 0203 REQUIREMENTS FOR A PRELIMINARY REVIEW INITIATED BY NASA

020301. Preliminary Review. When the Office of the Chief Financial Officer (OCFO) is apprised of a potential violation by an audit report or otherwise learns of a potential violation, the applicable NASA office may be requested, by memorandum, to perform a

preliminary review of the circumstances surrounding the potential violation in a timely manner (usually within 30 days). These reviews are to be responsive to the requirements in this Section as well as 0202 above.

020302. When the preliminary review report has been completed and the findings indicate a potential violation, a formal investigation shall be initiated by the applicable NASA office within 15 business days of the approval of the report.

020303. If the results of the preliminary review indicate that “no violation” occurred, then the preliminary review report completes the actions regarding the potential violation and no further action is required after the report is approved. The results of the review, however, shall be coordinated with the OCFO.

#### **0204 PRELIMINARY REVIEWS INITIATED AS A RESULT OF EXTERNAL REPORTS**

020401. In some cases, the Government Accountability Office; Inspector General (IG), or other organizations external to NASA may advise in a report that a potential violation may have occurred. Generally, in the case of audit reports, a recommendation to investigate the potential violation is included in the report. These reviews require additional reporting (see 020402 and 020403 below) and are to be responsive to the requirements in this Section as well as 0202 and 0203 above as applicable.

020402. Within 10 business days of receipt of a draft report that alleges a potential violation, the OFCFO shall request that a preliminary review of the potential violation be initiated within the next 15 days.

020403. In responding to the findings and recommendations in the reports, the NASA office shall supply the status of the preliminary review or formal investigation as requested by the applicable organization.

**CHAPTER 3****BEGINNING AN INVESTIGATION****0301 FORMAL INVESTIGATION**

Whenever a preliminary review determines a potential violation has occurred, a formal investigation is required under the provisions of this volume. Generally, the existence of a potential violation shall be established during the preliminary review and before a formal investigation begins.

030101. Purpose. The purpose of the formal investigation is to determine the relevant facts and circumstances concerning the potential violation--if a violation has occurred, what caused it, what are appropriate corrective actions and lessons learned, and who was responsible for the violation.

030102. Appointment of an Investigating Officer. An appointed investigating official shall perform a formal investigation. A formal memorandum shall advise the investigating officer of his or her appointment. That memorandum shall include the case number and specific timeframes to be met during the investigation. The case number shall be used on all applicable correspondence and reports related to the formal investigation.

**0302 INVESTIGATING OFFICER SELECTION**

030201. Selection Procedures. Individuals with no vested interest in the outcome, and who are capable of conducting a complete, impartial, unbiased investigation, shall conduct investigations of violations. A NASA official (e.g. Center CFO for the Centers and Deputy Administrator or OCFO) shall appoint a trained and qualified individual to serve as an investigating officer. To help assure independence and impartiality during an investigation, an investigating officer shall be selected from an organization external to the Center or Headquarters office being investigated.

030202. When the OCFO determines that a formal investigation be conducted, the applicable official shall assign an investigating officer within 15 business days of the receipt of the request.

030203. If the NASA CFO notifies the Inspector General, (IG) that a potential violation requires IG investigation, then the IG shall assign an investigating officer and advise the OCFO of the date the investigation began in the next monthly activity report. A case number shall be assigned by the organization being investigated.

030204. Except as prescribed in paragraphs 030204, 030205, and 030206, below, an investigating officer shall meet all of the following qualifications:

- A. Be adequately trained to conduct an investigation of this type.
- B. Have adequate experience in the functional area that is involved in the apparent violation.
- C. Have knowledge of financial management policies and procedures and the Antideficiency Act.
- D. be otherwise fully qualified to serve as an investigating officer.

030205. An investigating officer(s) need not be senior in grade to the person(s) being investigated. If not senior to the subject(s) of the investigation, the investigating officer shall not be anywhere within the supervisory chain of the persons being investigated.

030206. If an individual involved in the investigation or in the process of selecting and appointing the investigating officer has a conflict of interest or any personal stake in the outcome of the investigation, that individual shall remove himself or herself from the process.

Those matters that may not lend themselves to impartial investigation--because the investigator is assigned to the level where the violation occurred--shall be referred to the next higher level, through the appropriate management hierarchy, for the appointment of an investigator.

030207. Appointment of an Investigating Officer by the NASA CFO. An appointment of an investigating officer may be made or reviewed by the CFO or Deputy Administrator, whenever a potential violation (a) is of special interest to that official, (b) demands specific attention, or (c) may involve a high-level official. Such a review or appointment also may be made whenever other circumstances warrant such involvement.

030208. Legal Issues. An investigating officer may face a number of legal issues during the course of an investigation and may be expected to take statements. An investigating officer shall consult with appropriate legal counsel on any legal issues associated with the investigation.

030209. Using an Investigating Team. If a potential violation appears to involve a complex situation or multiple functional areas, then a team approach may be necessary. The appointing official shall ensure the investigating officer receives adequate support, including access to additional personnel with the requisite knowledge in all of the functional areas involved. A legal advisor for the investigating team shall be appointed.

**CHAPTER 4****CONDUCTING INVESTIGATIONS****0401 PURPOSE OF AN INVESTIGATION**

The purpose of an investigation of a potential violation of the Antideficiency Act is to determine what happened, the causes, who was responsible, what actions shall be taken to correct the current situation, and what actions shall be taken to ensure that a similar violation does not occur in the future. When an investigating officer is appointed, a formal investigation shall begin.

040101. Checklists. The “Checklist for Investigating Officers” Figure 4-1, below, shall be used during an investigation to document the results. The “Checklist for Appointing Officers” at Figure 4-2, below, shall be used by the appointing officer in the review of the investigating officer’s report of violation.

040102. Research Effort. An investigating officer shall review all specific documentation in the functional area involved related to the possible violation, including, but not limited to, such items as the report of the preliminary review, purchase requests, contracts, work orders, vouchers and supporting materials. In addition, the investigating officer shall take testimony from witnesses whenever possible.

**0402 TIMEFRAMES**

040201. Timeframes for Investigation. Investigations of potential violations of the Antideficiency Act, including the submission of the final summary reports to the NASA Chief Financial Officer (CFO), shall be completed within 3 months of the date of discovery.

A. All appointing officials shall stipulate in the appointing letter a due date for the investigative report. Such due date shall conform to the 3-month timeframe regardless of the scope of the event or amount of the potential violation.

B. The total process for investigating and reporting potential violations of the Antideficiency Act shall not take more than 6 months from date of discovery through the preparation and transmission of an investigator’s report (see 0405 CHECKLIST FOR INVESTIGATING OFFICERS) to OCFO or the Deputy Administrator as appropriate. Such report shall include draft transmittal letters to the President, the Director of the Office of Management and Budget, and the leaders of both Houses of the Congress.

C. Exceptions to this schedule must be approved by the Agency CFO.

040202. Approving Exceptions to Timeframes. The appointing official (e.g. Center CFO for the Centers and Deputy Administrator or the Chief Financial Officer for

Headquarters) may approve an exception to the above timeframe on a case-by-case basis. The granted extension shall not exceed 1 year from the day the investigation began.

#### 0403 DEVELOPING CONCLUSIONS

During the investigative process, the investigating officer shall use extreme care in obtaining and documenting all the relevant and specific facts of the case. The conclusions in the Investigating Officer's Report, including the identification of the person or persons as responsible for the violation, shall be supported by the facts presented in the report.

040301. Identifying Circumstances and Fixing Responsibility. The investigating officer shall consider carefully the facts and circumstances of the situation before fixing responsibility for a violation. Generally the responsible party will be the highest ranking official in the decision making process who had either actual or constructive knowledge of precisely what actions were taken and the impropriety or questionable nature of such actions. The person in the best position to prevent the ultimate error, however, is the highest ranking official who was aware of both factors. The investigating officer shall document clearly what each person did, or failed to do, that caused or contributed to the violation.

A. A report of violation shall include assignment of responsibility to one or more individuals for a violation so that appropriate administrative or disciplinary action, if any, may be imposed as required by Title 31, United States Code, sections 1349, 1350, 1518, and 1519.

B. All relevant aspects of the case, including all persons with knowledge relevant to the investigation shall be interviewed and records, shall be investigated fully. The key personnel involved in a violation shall be interviewed in coordination with the Office of Human Resources at Headquarters or the Center offices as appropriate.. If an employee to be interviewed is a member of a bargaining unit, then the investigating officer shall comply with appropriate statutory and collective bargaining agreement protections for such employee. Key facts associated with the events leading to the potential violation shall be examined and documented in the report and the investigating officer shall address any conflicts raised by the evidence. If a series of events at several levels led to the violation, then the report shall clearly identify what happened at each level and how the events contributed to the violation.

C. The investigating officer shall logically support a determination from the documented facts that one or more of the individuals involved are responsible for causing the violation.

D. The investigating officer shall clearly show what each person involved did, or failed to do, that caused the violation. The following questions shall be considered:

1. Did the violation occur because an individual carelessly disregarded instructions?

2. Did the violation occur because an individual was inadequately trained or lacked knowledge to properly perform his or her job? If so, was the individual or supervisor (or both) at fault?

3. Did the violation occur because of an error or mistake in judgment by an individual or a supervisor?

4. Did the violation occur because of lack of adequate procedures and controls? If so, then who was at fault?

5. Did the violation occur because of other reasons? If so, then who was at fault?

E If, at any time during an investigation, the investigating officer believes there may be a criminal issue(s) involved, then the investigation immediately shall be stopped. The investigating officer shall consult with legal counsel to determine if the issue shall be referred to appropriate criminal investigators for resolution.

#### 0404 CORRECTIVE ACTIONS

040401. Developing Corrective Actions. When the causes and the individual(s) responsible for the violation have been determined, NASA Directors, Center CFOs, Deputy CFOs or other appointed officials shall determine the corrective actions necessary to ensure a violation of a similar nature will not recur. Those actions shall be included in both the report of violation and the final summary report. In addition, officials of the NASA office under investigation, working with the investigating officer, shall develop a summary of lessons learned from the specific circumstances of the case.

040402. Recommending Disciplinary Action. At the conclusion of an investigation, appropriate disciplinary action, if any, shall be determined by the appropriate management official over the individual(s) named as responsible for the violation in conjunction with the agencies procedures for disciplinary action. That determination shall be based on consultations involving the individual's management and others with appropriate authority. The recommended disciplinary action, if any, shall be based on the severity of the violation, the degree of responsibility of the named individual and any mitigating circumstances.



0405 CHECKLIST FOR INVESTIGATING OFFICERS**Figure 4-1 CHECKLIST FOR INVESTIGATING OFFICERS**

The investigating officer shall ensure the following items have been considered during the course of an investigation and the preparation of the investigating officer's report of violation:

1. Review the Preliminary Review Report and develop questions, as needed, to:
  - a. Ensure a full understanding of the facts and circumstances of the potential violation.
  - b. Validate the existence of the potential violation.
2. Examine the physical evidence associated with the potential violation and document each piece of evidence.
  - a. Make copies of the transaction(s) that caused the potential violation. The transactions may consist of working group documents, planning documents, commitment documents, obligating documents, payment documents, or others. Copies of the transactions related to the violation may be located in the functional area originating the obligation or contracting office.
  - b. Trace and document who authorized or approved the transaction(s).
  - c. Trace and document all of the relevant decisions that led up to, and the contributing circumstances that set the stage for, the transaction(s) that caused the potential violation. These decisions might be traced to meeting minutes in which decisions concerning financial decisions were conducted.
  - d. If a regulation, funding document, or other administrative document was violated, then review the pertinent document. Determine specifically what administrative limitation was exceeded. Review the sections of Title 31 of the United States Code (U.S.C.) related to administrative violations: Sections 1511 through 1519. Determine specifically which section of Title 31 was violated. Seek legal assistance in making the determination
  - e. If a statutory limitation was exceeded, then review the pertinent statute. Title 31, United States Code, sections 1341 through 1348 contains general government-wide provisions dealing with statutory limitations. Voluntary services are covered by section 1342. NASA's statutory authority acceptance of unconditional gifts of services appears in 42 USC 2473(c)(4). Determine specifically which statute was violated. Seek legal assistance in making the determination
3. Interview the key players and document the results of the interviews. When interviewing NASA civilian employees, who also are bargaining unit members, ensure adherence to the

relevant sections of the United States Code and the collective bargaining agreement. All interviews with individuals who may be the subject of disciplinary action must be coordinated with the Office of Human Resources for Headquarters, or the Center offices, as appropriate.

- a. Question each key person to determine the role each played in the violation.
  - b. Question facts and circumstances that do not appear logical or supportable.
  - c. For those that are viewed as potentially responsible in any way, question why they did what they did and when they did it.
  - d. If they indicate that their supervisor instructed them to perform certain acts that contributed to the potential violation, interview their supervisors.
  - e. Re-interview to address conflicts in documented evidence.
4. Examine relevant circumstantial evidence associated with the potential violation and describe how each piece of circumstantial evidence relates to the case. Label all circumstantial evidence as such in the report. Inclusion of photographs, drawings, etc., particularly of construction projects, is not mandatory, but could be helpful in explaining the violation.

Figure 4-1 (continued)

**Figure 4-1 CHECKLIST FOR INVESTIGATING OFFICERS**

(continued)

5. Assemble and analyze the documented evidence.
  - a. First develop a list of all documents and evidence, including the statements of all witnesses. Develop and document a list of findings based upon the evidence. Identify the evidence that supports each finding.
  - b. Develop and document a list of conclusions, including which specific act, or failure to act, caused the potential violation. Identify the evidence and findings that support each conclusion.
  - c. Determine if a violation of the Antideficiency Act has, in fact, occurred and if so, which provision of the Act was violated. Include in the documentation the rationale and evidence that support this conclusion and state the type of violation and the section of the Antideficiency Act that was violated.
  - d. Identify the amount and date of the potential violation.
6. Determine if the acts that caused the violation complied with established internal controls or local operating procedures.
  - a. If the acts were in compliance with either the controls or procedures, determine what improvements are required to the controls and procedures to prevent future violations of this type.
  - b. If the controls or procedures were deficient or in need of improvement, then interview the supervisors of the operating personnel to determine why the controls and procedures were deficient.
  - c. In consultation with the operating personnel, and supervisor(s), recommend or review revised controls and procedures to prevent future violations of the same type. Include in the report any recommended improvements in procedures or controls and the actions taken on those recommendations by the affected organizational unit. Describe actions in detail so they may be evaluated for application at other locations.
  - d. Obtain from management officials of the office involved any lessons learned from this event for use by others in addressing similar circumstances. Include any recommended lessons learned in the report.

Figure 4-1 (continued)

**Figure 4-1 CHECKLIST FOR INVESTIGATING OFFICER**

(continued)

7. Determine to what degree each key player was responsible for the violation.

a. Generally the responsible party will be the highest ranking official in the decision making process who had either actual or constructive knowledge of precisely what actions were taken and the impropriety or questionable nature of such actions. The person in the best position to prevent the ultimate error, however, is the highest ranking official who was aware of both factors. The investigating officer shall document clearly what each person did, or failed to do, that caused or contributed to the violation

b. Identify in the report the individual(s) named responsible by name, grade, position title, job series, and organization.

c. Include in the report a brief, clear description of the causes and circumstances surrounding the violation.

(1) The description shall state clearly what the official(s) or employee(s) responsible for the violation did, or failed to do, that caused the violation.

(2) State whether the violation was due to careless disregard of instructions; an error; a lack of adequate training, procedures, or controls; or due to other reasons.

(3) The report shall not be so brief that it does not convey clearly the essential facts and circumstances of what happened. Clearly state in sufficient detail what happened.

(4) Identify the name and position of the holder of the funds subdivision and an evaluation of the performance of his or her fund control responsibilities.

8. In conjunction with the Office of Human Resources for Headquarters, or the Center offices, as appropriate. the individual(s) named responsible shall be:

a. Advised that he/she may consult with legal counsel or, when applicable, a union representative.

b. Advised by a management official in his/her chain of command that a violation has been determined to have occurred and that he or she is named a responsible individual for the violation and he or she will be allowed to review the report and examine evidence on which the determination was based.

Figure 4-1 (continued)

**Figure 4-1 CHECKLIST FOR INVESTIGATING OFFICER**

(continued)

- c. Allowed to submit a sworn or unsworn statement regarding the alleged violation after reviewing the report and evidence. If the individual declines to make a statement, then the report shall so indicate.
- d. Allowed to designate witnesses in his or her behalf.
- 9. Designated witnesses shall be interviewed for the record.
  - a. In the report, the investigator shall address any new facts presented in the statement(s).
  - b. If a designated witness declines to make a statement, then the report will so indicate.
- 10. The investigator shall assess whether the individual(s) named responsible knowingly and willfully committed the violation.
- 11. In consultation with the investigating officer and legal counsel and Office of Human Resource, management shall determine appropriate disciplinary action against the individual(s) named responsible. The recommended disciplinary action, if any, shall be commensurate with the severity of the violation and the degree of responsibility of the individual.
- 12. The investigator shall review the report before transmittal to the appointing official to determine that:
  - a. The report includes copies of the designation of the investigator by the appointing authority and the preliminary report.
  - b. The case control number, title of the appropriation/ fund involved, Treasury symbol, amount, date of occurrence, date discovered, and a description of how the potential violation was identified are included in the report. In addition, the name and title of the investigator, the dates, place, and scope of the investigation shall be included in the report.
  - c. There are no obvious questions or issues that have not been addressed.
  - d. The documented evidence supports the findings, conclusions, and recommendations in the report.
  - e. All key players and designated witnesses have been interviewed.

Figure 4-1 (continued)

**Figure 4-1 CHECKLIST FOR INVESTIGATING OFFICER**

(continued)

- f. All relevant evidence has been included in the report.
- g. All circumstantial evidence has been labeled properly to distinguish it from the evidence in item 12.f., above.
- j. An individual(s) has been named responsible, disciplinary action has been recommended.
- k. The investigator has indicated that the individual(s) named responsible did not commit the violation willfully and knowingly. If there were indications that an individual(s) may have willfully and knowingly committed a violation, then the case shall have been referred to criminal investigators.
- l. Corrective actions have been taken or recommended and the report identifies any lessons learned.
- m. Any findings, conclusions, and recommendations that are based upon testimony are cross-referenced to the record of the testimony.
- n. The documentation includes all legal advice rendered during the conduct of the investigation and the legal review of the report submitted to the appointing official.
- o. The report includes the name and position of the fund holder and an evaluation of his/her performance.
- p. The investigator has signed and dated the report.

Figure 4-1, Checklist for Investigating Officers

0406 CHECKLIST FOR APPOINTING OFFICERS**Figure 4-2 CHECKLIST FOR APPOINTING OFFICERS**

The appointing officer shall ensure the following items are addressed in the investigating officer's report of violation:

1. Is a copy of the appointing officer's memorandum and the Preliminary Review Report included in the report?
2. Does the report include the case control number, title of the appropriation/fund involved, Treasury symbol, amount, date of occurrence, date discovered, and a description of how the potential violation was identified, the name and title of the investigating officer, the dates, place and scope of the investigation?
3. Is the evidence clearly documented in the report and is the evidence relevant to the case?
4. Does the evidence appear to be complete or are significant factors missing that should be considered? Do there appear to be relevant unanswered questions?
5. Are the findings clearly stated, logical, supported by the evidence, and relevant to the case?
6. Is each finding that is based upon an interview properly cross-referenced?
7. Are the findings and conclusions fully substantiated by the evidence and interviews?
8. Were all conflicts in the statements and documents addressed in the report?
9. Is there an explicit statement that a violation, in fact, occurred or that no violation occurred? If a violation occurred, does the report include a citation of the section of the Antideficiency Act that was violated?
10. Does the report name at least one individual as being responsible for the violation? Does the evidence support the determination of responsibility made by the investigating officer? Is the individual(s) named responsible identified by name, grade, position title, job series, and organization? Does the report identify the date of the potential violation and the amount?
11. Does the report include a clear description of the causes and circumstances surrounding the violation?
  - a. The description shall state clearly what the officer(s) or employee(s) responsible for the violation did, or failed to do, that caused the violation.

Figure 4-2 (continued)

**Figure 4-2 CHECKLIST FOR APPOINTING OFFICERS**

(continued)

b. State whether the violation was due to careless disregard of instructions; an error; a lack of adequate training, procedures, or controls; or due to other reasons.

c. The report shall not be so brief that it does not convey clearly the essential facts and circumstances of what happened. Clearly state in sufficient detail what happened.

d. Identify the name and position of the holder of the funds subdivision and an evaluation of the performance of his or her fund control responsibilities.

12. Does the report indicate that each individual named responsible was:

a. Accorded all rights to which they are entitled as an employee and/or member of a bargaining unit.

b. Advised that a violation has been determined to have occurred, that he or she is named a responsible individual for the violation, and he or she will be allowed to review the report and examine evidence on which the determination was based?

c. Allowed to make a statement regarding the alleged violation after reviewing the report and evidence. The report should include any such statement made at the time of the investigation. Statements made after the report is signed and dated by the investigative officer should be included as an addendum to the report. If the individual declines to make a statement, then the report shall so indicate.

d. Allowed to designate witnesses to testify in his or her behalf?

13. Were the rights of the individual(s) named responsible protected? Are there indications in the report that suggest that their rights were not fully protected? If so, the case may have to be reinvestigated.

14. Were all witnesses--designated by the individual(s) named responsible--interviewed or does the report include valid reasons why they were not interviewed?

15. Was there any relevant new information furnished by the oral or written statements by the individual(s) named responsible, or their designated witnesses? If so, does the report address this new evidence and its bearing on the responsibility of the named individual(s)?

Figure 4-2 (continued)



**Figure 4-2 CHECKLIST FOR APPOINTING OFFICERS**

(continued)

16. Does the report explicitly state whether the violation was willfully and knowingly committed? If there are indications the violation willfully and knowingly was committed, the investigation shall have been referred to criminal investigators.
17. Has the investigating officer included a discussion of the following items in the report and have appropriate actions been taken to:
  - a. Human Resources as to whether disciplinary action is appropriate given the facts and circumstances of the case
  - b. Disciplinary recommendation if appropriate.
  - c. Actual disciplinary actions been taken to discipline the named individual if done before the issuance of the report.
  - d. Identify and install corrective actions to prevent similar violations in the future.
  - e.. Improve procedures and controls, if appropriate.
  - f. Identify lessons learned from this case.
  - g. Ascertain a legal review of the report.
18. Has the report been signed and dated by the investigator?

Figure 4-2, Checklist for Appointing Officers

**CHAPTER 5****STATUS REPORTS ON INVESTIGATIONS****0501 OVERVIEW**

During the course of an investigation, reports of progress are required to provide status to the NASA office under investigation and to the Office of the Chief Financial Officer (OCFO).

**0502 MONTHLY ACTIVITY INFORMATION**

Information as indicated on Figure 5-1 is required on a monthly basis to report progress on overdue investigations and status on all other ongoing investigations.

**0503 INFORMATION REQUIREMENTS**

The Investigating official shall report the required information on a monthly basis to the OCFO by the fifth business day of the month following the reporting month. The information should be limited to the below to avoid improper influence of the investigation while the it is under way. Nor shall it discuss findings or facts being developed.

050301. When a formal investigation is initiated, the OCFO shall assign a case number and ensure that the appointing official establishes a completion date for the investigation.

050302. If the completion date for final reports of violation is not met, a monthly report providing status of those overdue investigations is required. In addition, the status of ongoing investigations must be reported each month.

A. The information required by Figure 5-1 includes a list of the overdue reports of violation, the date each report is due to the OCFO and the current status.

B. The information required by Figure 5-1 also includes any information not reported previously, including changes or new information for on-going investigations.

C. If necessary, all information on all on-going investigations may be reported each month, but the new or revised information should be highlighted in bold or underlined. Annotating the reporting of changes and new information will facilitate the analysis of the current status of the investigations.

**0504   STATUS**

Status on cases shall continue to be reported on a monthly basis from the beginning of the formal investigation through the date a final violation report or a “No Violation” Report is provided to the OCFO.

050401.        If a case is returned to NASA office by the OCFO, monthly status reporting shall be resumed by the NASA office until that case is again provided to the OCFO.

050402.        When the case is returned, a suspense date for returning the case shall be assigned to the NASA office with the time required to (a) provide the additional information, (b) correct the report, or (c) complete other actions requested.

Figure 5-1 SUMMARY STATUS OF ANTIDEFICIENCY ACT INVESTIGATIONS  
AS OF (Insert Last Day of Month)

**OVERDUE CASES**

CASE #	DATE DUE TO HQ OCFO	CURRENT STATUS

NOTE: Include the case number for all cases that are overdue, the initial date due to the Office of the Chief Financial Officer (OCFO), and a statement of the most current status. Address any steps taken to expedite the case. If the status has not changed since the prior month's report, indicate "status unchanged from previous month."

Figure 5-1 (continued)

**Figure 5-1 SUMMARY STATUS OF ANTIDEFICIENCY ACT INVESTIGATIONS (continued)**  
**AS OF (Insert Last Day of Month)**

The key below contains field descriptions.

(1) CASE NUMBE R	(2) STATUS	(3) AMOUN T	(4) APPN & TREASURY ACCT SYMBOL	(5) US CODE REF	(6) ORGAN- IZATION	(7) LOCATIO N
95-01	Under Investigation Completed--No Violation Completed--A Violation	\$1,000.0 0	80 prefix for NASA (e.g. 80X4546) NASA WCF	1341(a)(1)( A) 1341(a)(1)( B) 1342 1517(a)(1) 1517(a)(2)		

(8) NATURE OF VIOLATION	(9) DATE POTENTIAL VIOLATION OCCURRED	(10) DATE POTENTIAL VIOLATION DISCOVERE D	(11) DATE INVESTIGA- TION BEGAN	(12) SOURCE OF POTENTIAL VIOLATION
(See examples attached as Figure 5-2)	00/00/00	00/00/00	00/00/00	Source (If identified by an audit report, provide the report number and title).

(13) BRIEF DESCRIPTION OF POTENTIAL VIOLATION	(14) PROGRESS OF VIOLATION/OTHER COMMENTS
Briefly describe what appears to have caused the potential violation.	Provide significant milestones regarding progress of the case- e.g. date investigating officer was appointed, date report was submitted to the appointing official, the OCFO, the General Counsel.

**Field Description Key**

- (1) Insert the case number assigned by the NASA CFO.
- (2) Insert the current status of the case.
- (3) Insert the amount of the violation.
- (4) Insert the Appropriation and the Treasury Account Symbol.
- (5) Insert the United States Code Reference suspected of being, potentially at risk of being, or actually violated.
- (6) Insert the name/designation of the organization where the suspected or potential violation occurred.
- (7) Insert the location of the organization where the suspected or potential violation occurred.
- (8) Insert the nature of the violation. (See Figure 5-2, below.)
- (9) Insert the date the suspected, potential, or actual violation occurred.
- (10) Insert the date the suspected, potential, or actual violation was discovered.
- (11) Insert the date the investigation began.

- (12) Insert the source of the suspected, potential or actual violation (if identified by an audit report, include the report title and number).
- (13) Insert a brief narrative description of the suspected, potential or actual violation--describe what appears to have caused the suspected, potential or actual violation.
- (14) Insert a brief narrative on the progress of the investigation--include significant milestones, such as date the report was submitted to the appointing official, date the report was submitted to the FM.

NOTE: The case number, amount, and appropriation should be reported each month for all investigations not yet formally submitted to the OCFO. For all other information requested, report only information that previously has not been reported, or information that has changed since reported previously.

Figure 5-1, Summary Status of Antideficiency Act Investigations

**Figure 5-2 NATURE OF VIOLATIONS**

The following list of possible violations is related to the Nature of Violation # 8 on Figure 5-1, above.

Accepted Voluntary Services
Charged Incorrect Appropriation
Disbursement(s) Exceeded Recorded Obligation(s)
Exceeded Appropriation/Fund Availability
Exceeded Available Obligation Authority
Exceeded Expense Versus Procurement Limitation
Exceeded Minor Construction Limitation
Charged Incorrect Fiscal Year
Exceeded Repair and Maintenance Family Housing Limitation
Obligation Not Recorded
Other (Explain)

Figure 5-2, Nature of Violations

**Figure 5-3 CHECKLIST FOR FINAL SUMMARY REPORT OF VIOLATION**

During preparation of the final summary report of an Antideficiency Act violation, the following items should be considered. This checklist is intended for the investigating official and appointing official. Adherence to this checklist can help to reduce requests by the Office of the Chief Financial Officer (OCFO) for additional information on cases.

\_\_\_A. Case Control Number

All violation cases are identified by a case control number. Case control numbers are assigned by the OCFO and provided through channels to the investigating officer. The reports must contain the case control number for control and monitoring requirements of the agency.

\_\_\_B. The title of the appropriation or other fund account involved.

\_\_\_C. The Treasury symbol of the appropriation or fund account involved.

\_\_\_D. The amount of the violation.

The amount of the violation must correspond to the amount of funds which will be requested to correct the violation or the amount for which approval will be obtained to correct the violation.

\_\_\_E. The date(s) on which the violation occurred.

\_\_\_F. The date on which the violation was discovered.

\_\_\_G. How the violation was discovered.

Was it discovered locally? Did an audit agency discover the violation?

\_\_\_H. Name, grade, and civilian job series number--required by the Office of Management and Budget--of the civilian(s) responsible for the violation.

1. If a violation involves a centrally-managed allotment, the head of the operating agency at the time the violation was incurred shall be named responsible.

2. Others, in addition to the head of the operating agency, also may be determined to be responsible for the violation.

Figure 5-3 (continued)



**Figure 5-3 CHECKLIST FOR FINAL SUMMARY REPORT OF VIOLATION**

(Continued)

- \_\_\_I. The position title of the officers(s) or employee(s) responsible for the violation.
- Spell out completely the position title. Spell out the formal name for the XYZ branch. Include enough detail so that an outsider will be able to understand the individual's position.
- \_\_\_J. The organization of the official (s) or employee(s) responsible for the violation.
- \_\_\_K. The section or subsection of Title 31, United States Code that was violated--for example, Title 31, United States Code, subsection 1341(a)(1)(A); Title 31, United States Code, subsection 1517(a)(2); or Title 31, United States Code, section 1342.
- \_\_\_L. State whether the violation was an overobligation of an appropriation, an apportionment, or an allotment.
- If an administrative subdivision of funds is involved with the violation, state whether the administrative subdivision of funds was overobligated. An administrative subdivision of funds can be an allotment, a centrally- managed allotment, an operating budget authority, an allocation, a suballotment, or a suballocation..
- \_\_\_M. A statement about the effect on the next higher level of funding.
1. Exceeding an administrative subdivision at the local level can lead to the next higher level exceeding its subdivision of funds and could also lead to the apportionment and appropriation being exceeded.
  2. For instance, if a Center exceeded an amount in an operating budget authority or an allotment, did this cause the Headquarters operating budget authority or allocation to also be exceeded?
- \_\_\_N. A brief, clear description of the causes and circumstances surrounding the violation. The description must clearly state what the official (s) or employee(s) responsible for the violation did, or failed to do, that caused the violation. State whether the violation was due to careless disregard of instructions, an error, a lack of adequate training, procedures, controls, or other reasons.
- \_\_\_O. A statement that either the violation was knowingly and willfully committed or that the violation was not knowingly or willfully incurred.

Figure 5-3 (continued)

**Figure 5-3 CHECKLIST FOR FINAL SUMMARY REPORT OF VIOLATION**  
(Continued)

- \_\_\_P. If know at the time of the report include a statement of the administrative discipline imposed and any further action taken with respect to the officer(s) or employee(s) named responsible for the violation. If not know add it as an appendix later. The individual responsible for determining disciplinary action should attach written statements to the report acknowledging that (1) a violation is a serious matter and (2) disciplinary action taken/to be taken is appropriate to the causes and circumstances determined during the investigation, (3) the agency must report the violation to the Congress and the President, and (4) the disciplinary action taken/to be taken is commensurate with the severity of the violation, with full justification of extenuating circumstances. If no disciplinary action is deemed appropriate, a full justification is required.
- \_\_\_Q. If known at the time of the report description of specific action(s) taken to correct the violation. Include any procedural changes or new safeguards established to prevent recurrence of the same type of violation. Describe actions in detail so that adequacy of the corrective action(s) may be evaluated. If not know add it as an appendix later.
- \_\_\_R. A statement as to the adequacy of the system of administrative control.
- \_\_\_S. A statement shall be made concerning the steps taken to coordinate the report within the agency if another Federal agency is involved.
- \_\_\_T. Each official or employee named responsible for the violation shall be given the opportunity to state any circumstances believed to be extenuating. The statement should not be based on a preliminary investigation, but should be made after a determination of responsibility has been made.

The individual(s) found responsible for the alleged violation must be:

1. Allowed to consult with legal counsel.
  2. Advised that a violation has been determined to have occurred and that he or she is named a responsible individual for the violation and will be allowed to review the report and examine evidence on which the determination was based.
  3. Allowed to submit a sworn or unsworn statement regarding the alleged violation after reviewing the report and evidence.
- \_\_\_U. The report shall include an evaluation of any conflicting facts or circumstances when the statement of the responsible official(s) or employee(s) differs from the report itself.

Figure 5-3 (continued)

**Figure 5-3 CHECKLIST FOR FINAL SUMMARY REPORT OF VIOLATION**

(Continued)

- \_\_\_V. Name and position of the holder of the funds subdivision and an evaluation of the performance of his or her fund control responsibilities.  
Provide the name and position of the holder of funds along with the evaluation.
- \_\_\_W. A statement of any additional action taken by, or at the direction of management with respect to the overallocation, overallotment, authority, or directive to overobligate, or overexpend, and any procedural changes or new safeguards established to prevent recurrence of such violation. Also include the actions taken to provide funds, if required, to cover the amount of the violation.
- \_\_\_X. Lessons learned. A statement summarizing lessons learned from the results of the investigation.
- \_\_\_Y. Additional Information. Include in the report of violation the following information:
1. Testimony from witnesses.
  2. Documentation such as photographs, drawings, copies of appropriate pages of regulations, and other documents, gathered to support any conclusion(s) reached.
  3. The review of such report by the appointing official.
  4. Any other pertinent information generated as the result of the investigation. If the violation involved an appropriation with a negative balance, state whether the cause of the negative balance was systemic or a unique situation. (Includes item X, above.)
- \_\_\_Z. Other Comments. Each report is a unique work reflecting each investigating officer's individual effort. All reports shall include a legal review of the report.
- \_\_\_AA. Appointment Letter. The Investigative Officers appointment letter should be included in the report as the first exhibit.
- \_\_\_AB. Documentary Evidence. The report should list all the documentary evidence.
- \_\_\_AC. Witnesses. The report should list all the witnesses who were interviewed.

Figure 5-3, Checklist for Final Summary Report of Violations

**CHAPTER 6****TRAINING****0601 INTRODUCTION**

This chapter establishes policies and procedures for the training of individuals assigned to investigate potential and actual violations of the Antideficiency Act (ADA). To ensure efficiency in the investigation of, and reporting on, ADA violations, those involved in the investigation process must receive adequate training.

**0602 TRAINING FOR INVESTIGATORS**

One of the most important individuals involved in the investigation process of the Antideficiency Act violations is the investigator. It is the responsibility of the NASA CFO to ensure that an individual assigned as an investigator has received proper training. Training requirements for Antideficiency Act investigators are as follows:

060201. Completion of an Appropriations Law, or equivalent course, shall be a prerequisite for ADA investigators. In addition refresher training in appropriation law shall be provided no less frequently than every five years.

060202. ADA investigators shall be qualified to: interview witnesses, gather evidence, develop “facts,” document findings and recommendations, prepare reports of violation, recommend appropriate disciplinary action, meet timeframes established for the completion of an investigation, and recommend corrective actions. Chapter 5, Figure 5-1 of this volume also has a checklist, which should be used by investigators.

060203. ADA investigators shall receive additional training on an as needed basis.

060204. NASA offices are encouraged to develop courses using interactive media or computers. A training handbook also may be used as a “hands-on” guide during an investigation.

060205. Once an individual completes appropriate training, his or her name shall be included on a roster of available ADA investigators maintained by OCFO. Data to be maintained on the roster for available investigators include the name, grade, date initial training was received, organization to which assigned, functional specialty, and number of investigations previously conducted. Controls shall be established to ensure that the required roster is maintained and reviewed annually for accuracy. The roster shall be used by NASA to select individuals to investigate potential violations of the Antideficiency Act.

**0603 TRAINING FOR FINANCIAL AND PROGRAM MANAGERS**

The Office of the Chief Financial Officer (OCFO) shall provide appropriate training for its senior financial managers and program managers. The focus of this training shall include the basics of fund control and the ADA statute; the types of violations that can occur; the most frequent types of violations that occur, their causes; the requisite training, supervision, and oversight of personnel who perform financial management or programmatic functions; and methods for preventing violations. Video, computer courses or a handbook may be used for such training. The training shall be provided to these managers on a periodic basis to ensure currency of topics identified above.

**CHAPTER 7****DISCIPLINARY ACTION****0701 ADMINISTRATIVE DISCIPLINE**

A NASA employee who is responsible for a violation under “Administrative Control of Appropriations,” located in NASA Financial Requirements, Volume 5 “Budget Execution” shall be subject to appropriate administrative discipline. Appropriate administrative discipline for violations of Title 31, United States Code (U.S.C), sections 1341(a), 1342, or 1517, is authorized by 31 U.S.C. 1349 or 1518. Nonetheless, disciplinary action shall not be taken without appropriate coordination with the Office of General Counsel.

070101. Disciplinary action shall be administered on a case-by-case basis as determined by the appropriate authority. The level of discipline administered to the individual responsible shall be commensurate with the nature and seriousness of the offense, the record of the person responsible, their level of experience, the degree and level of responsibility of the individual. Any mitigating circumstances shall also be considered.

070102. Administrative discipline for a civilian employee may include written admonishment or reprimand, reduction in grade, suspension from duty without pay, or removal from office.

**0702 DOCUMENTING DISCIPLINARY ACTION**

A violation of the Antideficiency Act is a serious matter as it represents a violation of a Federal statute. The fact that a violation was not willfully and knowingly committed does not, by itself, justify a decision not to impose disciplinary action. The individual (e.g. Deputy Administrator or Center Director) who is responsible for determining the appropriate disciplinary action shall perform the following tasks.

070201. Acknowledge, in writing, that he or she understands that (a) a violation of the Antideficiency Act is a violation of Federal statute; (b) the agency is required to report the violation to the President and the Congress of the United States; (c) even though a violation may not have been committed willfully or knowingly that, by itself, does not justify a decision not to administer disciplinary action; and (d) disciplinary action commensurate with the severity of the violation and other factors should be taken against the individual(s) named responsible for a violation.

070202. Provide a written statement addressing why he or she believes that the disciplinary action taken, or the failure to take disciplinary action, is commensurate with the severity of the violation. If there are extenuating circumstances, they must be considered.

070203. Include both statements discussed above in the report of investigation.

0703 CRIMINAL PENALTIES

070301. If a violation has been determined to have been knowingly and willfully committed, there are statutory provisions requiring criminal penalties. All investigations that provide any indications that the violation was knowingly and willfully committed shall be terminated by the investigating official. The investigating official should consult with the CFO and or the Inspector General to determine if the investigation should be referred to the appropriate criminal investigation organization for action.

070302. Both sections 1350 and 1519 of Title 31, United States Code, discuss criminal penalties for violations of the Antideficiency Act. Title 31, United States Code, section 1350, prescribes that “an officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1341(a) or 1342 of this title shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.” Title 31, United States Code, section 1519, includes the violation of section 1517(a) and provides the same level of punishment. .

070303. When submitting a final summary report of violation to the Office of the Chief Financial Officer that may require criminal penalties, a statement to that effect--which is required by OMB Circular No. A-11--shall be included in the summary report from the senior management.

**CHAPTER 8****VIOLATIONS--CAUSES, PREVENTION, AND CORRECTION**0801. **CAUSES OF VIOLATIONS**

080101. Based on an analysis of investigations of violations, the following list identifies the most frequent causes of violations of the Antideficiency Act:

- A. Established internal controls and standard operating procedures not followed.
- B. Inadequate supervisory involvement or oversight.
- C. Lack of appropriate training.
- D. Inadequate standard operating procedures and internal controls.

080102. As the above list indicates, supervisors of NASA personnel who have responsibility for control and use of NASA funds should ensure that their personnel are provided with proper oversight, support, and necessary training to help prevent violations. The following section discusses specific actions that can be taken to reduce or prevent violations.

0802. **PREVENTING VIOLATIONS**

080201. To help prevent violations of the Antideficiency Act, NASA personnel should be knowledgeable of the requirements in this Volume. Supervisors at all levels should provide their employees with the requisite training and experience in the control and use of funds at levels commensurate with their responsibilities. Furthermore, supervisors should perform oversight and validation checks to ensure that established internal controls and standard operating procedures are adequate and are being consistently followed by their employees. Supervisors shall use their internal management control programs to assess periodically the reliability of internal control systems and employee internal management control accountability.

080202. One of the most effective ways to prevent violations is to perform regular reviews of the status of funds reports. In this regard, commitments shall not be added to obligations to determine whether a violation has occurred. However, if the amount of commitments and the amount of obligations (undelivered orders, accrued expenditures unpaid, and accrued expenditures paid) exceed the total availability of an allotment, allocation, or appropriation, a violation could occur if all or some of the commitments eventually become valid obligations.

080203. The most common types of violations can be significantly decreased by proactive measures specifically tailored to address the causes and corrective actions required to



prevent their occurrence. NASA personnel with responsibilities for the control and use of funds of the types described below should be aware of these common types of violations and shall be required to take positive actions to avoid their occurrence.

080204. Violations can be minimized or prevented through proper education and effective training of personnel and ensuring that adequate internal controls and standing operating procedures are in place and being followed.

A. This volume should be used to communicate the importance of learning about violations to the personnel throughout NASA. Other sources on the subject of the Antideficiency Act include the United States Code and opinions and decisions of the Comptroller General.

B. This volume should be used as source material to conduct seminars and workshops targeted to general and specific audiences including program managers, engineers, contracting, information systems, comptroller personnel, supervisors, and managers.

C. Formal education on the Antideficiency Act is another option. Formal courses can be used to alert personnel to common violations and high-risk business transactions and decisions that can result in a violation.

080205. On-the-job training is the responsibility of all supervisors and personnel. Supervisors and managers should incorporate the provisions of this volume in their on the job training programs for those employees responsible for funds administration and for use of funds.

### 0803. NO VIOLATION--ERRONEOUS CHARGING OR RECORDING

080301. No violation of the Antideficiency Act is considered to have occurred when an overobligation or overexpenditure is solely the result of not recording available documents or transactions that increase fund availability, recording an erroneous transaction, or recording a transaction erroneously. In each instance, the potential violation status is eliminated by correcting the erroneous transaction, or by posting the omitted transaction. However, such actions should not include the deletion or adjustment of any valid transactions. If after the proper recording of the transactions, an overobligation or expenditure remains, a potential violation of the Antideficiency Act has occurred.

080302. A violation of Title 31, United States Code, section 1517, may exist when the amount of funds granted to other activities exceeds the amount of funds available under the applicable authorization of funds received. Sometimes errors occur when recording transactions that have the effect of showing more funds in the allotment, operating budget authority, or other administrative subdivision of funds than are actually available. When such errors do occur and the funds are not obligated or expended, there generally is no potential violation. However, the error must be corrected as soon as it is detected. Conversely, errors which require correction by obtaining additional funds in the administrative subdivision of funds cannot eliminate the fact that a violation has, indeed, occurred and must be investigated.

080303. An erroneous recording is the recording of an authorization of funds, obligation, commitment, or expenditure in an incorrect fund or account; or the posting of an amount other than the correct amount for the transaction. An erroneous recording may occur by citing the wrong fund, appropriation, subhead, budget project, or allotment on an obligation and/or expenditure document. Examples may also include the recording of duplicate payments or overpayments and/or related obligations. An omission is the failure to post a properly executed authorization of funds (either received or granted), a purchase request, commitment, an obligation, or an expenditure, when the document/transaction is available for recording.

080304. Once incurred, failure to record valid obligations or expenditures, in the official accounting records will not preclude or avoid a potential violation. All obligations or expenditures shall be recorded accurately and promptly even if the recording results in a negative amount in the accounting records.

080305. A potential violation may not exist after an error in the records has been corrected if the following situation exists: Neither obligations nor expenditures incurred exceed the amount of the applicable authorization of funds received at the time of correction and would not have exceeded the applicable authorization of funds received at the time of the initial transaction(s) that are being corrected.

080306. A failure to record a valid obligation or expenditure as of the date incurred does not avoid the occurrence of a violation of the Antideficiency Act if the recording results in the account balance or other limitation being exceeded. A potential violation must be reported if this occurs. Obtaining additional funds to cover the violation is required. However, obtaining the additional funds does not eliminate the fact that a violation occurred.

#### 0804. CORRECTIVE ACTION

080401. Part of an investigating officer's responsibilities includes recommended actions to prevent future violations of a similar type (procedural corrections) and to correct the specific adverse funding condition (funding corrections) that resulted from the violation.

080402. The report of violation does not serve to condone, retroactively approve, or financially justify, a violation. All violations must be corrected with the proper funding or the necessary approval from the proper approving authority.

##### 080403. Procedural Corrections

A. These corrective actions usually are made by the organizational unit causing the violation and may include training or changes in procedures to preclude similar violations. Other activities may also be involved. For instance, it is possible that, as a part of an organization's overall corrective action, a change in local procedures for an organization such as contracting, engineering, information systems, or accounting office--which supports the NASA office--is required. Additionally, changes in practices or procedures by the finance office could

provide benefits to the activity that caused the violation. However, unless individuals in the finance office caused the violation, corrective actions taken by that office would be secondary to the corrective actions taken by the responsible organization.

B. Recommendations for future consideration of organization-level corrective actions are not acceptable in the report. The report must state what corrective actions were actually taken and are being taken to preclude similar violations in the future.

C. The investigating officer also may make recommendations for improvements in the contents of the Checklists or other portions in this Volume.

080404. Funding Corrections

A. The report must state what actions were taken to request the proper funding. Wording in the report to the effect that funds will be requested is not sufficient.

1. Under Title 31, United States Code, section 1301(a), appropriations shall be applied only to the objects for which the appropriations were made, except as otherwise provided by law. This means that if funds were used for a purpose other than for which they were appropriated, they have been used incorrectly. Correct funds must be used as provided by law. The funding correction should be made as soon as possible. However, since it may take some time to obtain the proper funds, the report should not be held until the funds are provided. The report shall state what action has been taken to ensure the violation is “financially corrected” and when the funds are expected to be received.

2. Care must be taken when correcting financial transactions that involve foreign currency fluctuations budget rates. The appropriate budget rate for the year must be used.

a. The appropriation from which the incorrect transaction took place must be corrected as well as the applicable foreign currency fluctuations centrally-managed allotment from which any gain or loss (difference between the current rate actually paid and the budget rate actually obligated) was incorrectly credited or charged.

b. Corrections applying to foreign currency fluctuations centrally-managed allotments require coordination with the funds manager of the applicable foreign currency fluctuations centrally-managed allotment for the NASA office.